

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 25, "Housing Fund," Iowa Administrative Code.

The proposed amendments add a number of new definitions; incorporate new "green development" standards and criteria into the housing program; add a new eligible activity, "development subsidy," to cover some of the additional costs of green development; increase the maximum award amounts for several of the housing activity categories; and include a number of other clarifying revisions.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 11, 2008. Interested persons may submit written or oral comments by contacting: Terry Vestal, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4850.

A public hearing to receive comments about the proposed amendments will be held on August 11, 2008, at 1 p.m. at the above address in the ICN/Main Conference Room, Second Floor.

These amendments are intended to implement Iowa Code section 15.108(9)"b."

The following amendments are proposed.

ITEM 1. Adopt the following **new** "Development subsidies" "Gut rehabilitation" "Iowa green communities criteria" "Lead hazard reduction or abatement carrying costs" "Technical services" in rule **261—25.2(15)**:

*"Development subsidies"* means financial assistance provided to developers of newly constructed, single-family housing to address the added costs of constructing housing that is in compliance with the Iowa green communities criteria. In such cases, the total cost of development is likely to exceed the sales price or the appraised fair market value of the housing. Additional costs might include labor, materials and equipment; professional design and construction oversight costs; and required third-party energy efficiency verification and certification costs.

*"Gut rehabilitation"* means an activity or project that involves the total removal and replacement of all interior (nonstructural) systems, equipment, components or features of a multifamily structure, whereby the existing structure will be reduced down to the basic structure or exterior building shell (e.g., the foundation system; exterior walls; roofs; and interior structural components such as columns, beams, floors and structural bearing walls). "Gut rehabilitation" may also include structural or nonstructural modifications to the exterior of the structure.

*"Iowa green communities criteria"* means a set of rating factors, some optional and some mandatory, prepared by IDED and intended to promote public health, energy efficiency, water conservation, smart locations, operational savings and sustainable building practices.

*"Lead hazard reduction or abatement carrying costs"* means the additional costs incurred by lead professionals to ensure that target housing is lead-safe at the completion of rehabilitation. "Lead hazard reduction or abatement carrying costs" includes, but is not limited to, required notifications and reports, lead hazard or abatement evaluations, revisions to project specifications to achieve lead safety, lead hazard reduction or abatement oversight, and clearance testing and final assessment.

*"Technical services"* means all services that are necessary to carry out individual, scattered site activities including but not limited to: (1) conducting initial inspections, (2) work write-up or project specification development, (3) cost estimate preparation, (4) construction supervision associated with

activities that do not require an architect or engineer, (5) lead hazard reduction or lead abatement need determination and oversight, (6) lead hazard reduction or abatement carrying costs, (7) temporary relocation coordination, (8) financing costs such as security agreement preparation and recording or filing fees, (9) processing of individual applications for assistance, (10) income eligibility determination and verification, (11) value determination (new construction) or after rehabilitation value determination (existing structures), and (12) project-specific environmental clearance processes.

ITEM 2. Amend rule 261—25.3(15) as follows:

**261—25.3(15) Eligible applicants.** Eligible applicants for housing fund assistance include all incorporated cities and all counties within the state of Iowa; nonprofit organizations; CHDOs; and for-profit corporations, partnerships and individuals.

1. Any eligible applicant may apply directly.
2. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

ITEM 3. Amend subrule 25.4(1) as follows:

**25.4(1)** Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction, home ownership assistance (including development subsidies), owner-occupied housing rehabilitation, and other housing-related activities as may be deemed appropriate by IDEED. Assisted housing may be single-family housing or multifamily housing and may be designed for occupancy by homeowners or tenants.

*a.* and *b.* No change.

~~*e.* — In communities with populations of 15,000 or less, all single family rehabilitation must be done in compliance with Iowa’s Minimum Housing Rehabilitation Standards (November 1999), and all applicable state and local codes, rehabilitation standards and ordinances, and shall, at a minimum, meet HUD Section 8 Housing Quality Standards, 24 CFR 882 (April 1, 1997). New units must be constructed pursuant to one of the standards specified at 24 CFR 92.251(a)(1) (April 1, 1997).~~

*c.* Property standards. All newly constructed housing (single-family and multifamily housing) shall be constructed in accordance with any locally adopted and enforced building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the state building code shall apply.

(1) All rental activities involving rehabilitation shall be rehabilitated in accordance with any locally adopted and enforced building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the state building code shall apply.

(2) All single-family housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the most current version of Iowa’s Minimum Housing Rehabilitation Standards shall apply (all communities with populations of 15,000 or less).

*d.* Iowa green communities criteria. All newly constructed housing (single-family and multifamily housing) and all multifamily rental activities involving gut rehabilitation shall meet the mandatory requirements of the Iowa green communities criteria. All other multifamily rental activities involving rehabilitation (that is, not gut rehabilitation) shall meet the applicable mandatory requirements of the Iowa green communities criteria regarding rehabilitation.

ITEM 4. Amend rule 261—25.5(15) as follows:

**261—25.5(15) Application procedure.** All potential housing fund applicants are encouraged, but not required, to complete and submit a HART form describing the proposed housing activity prior to the submittal of a formal housing fund application. If the proposal is determined to be appropriate for housing fund assistance, IDEED shall inform the applicant of the appropriate application procedure by mail.

**25.5(1) to 25.5(3)** No change.

**25.5(4) Housing fund applications.** Housing fund applications shall be reviewed through an annual competition. ~~Once funds have been allocated, IDED will not accept applications seeking funding for review until the next established deadline.~~  IDEED reserves the right to withhold funding from the annual housing fund competitive cycle to compensate for insufficient numbers or quality of applications received; to ensure that IDEED meets its 15 percent CHDO set-aside from HOME funds; to add HOME funds to existing HOME awards within one year of the original award date; to reallocate de-obligated or recaptured funds; and to fund projects that are consistent with Iowa green communities criteria. In the event that funds are withheld from the annual competitive cycle, IDEED will entertain additional applications, requests for proposals, or other forms of requests as deemed appropriate by IDEED.

**25.5(5) Joint applications.** For applicants requesting funding for both the housing fund and low-income housing tax credit (LIHTC) programs, the applicant may request application forms and related materials from the Iowa finance authority (IFA). IFA will make available an application package to a potential applicant. The applicant must submit the completed application, with required housing fund attachments, to IFA by the deadline established in the application package.

a. No change.

b. IDEED staff shall review applications for eligibility and for activity threshold requirements. The joint review team shall meet to compare and discuss each common project. Final award decisions regarding funding recommendations will be made in accordance with IFA's qualified allocation plan (scoring and set-asides). Staff from each agency will make recommendations for funding to their respective decision makers. A decision by one agency does not bind the other agency to fund a project.

c. No change.

ITEM 5. Amend rule 261—25.6(15) as follows:

**261—25.6(15) Minimum application requirements.** To be considered for housing fund assistance, an application shall meet the following threshold criteria:

**25.6(1)** The application shall propose a housing activity consistent with the housing fund purpose and eligibility requirements, sustainability and smart growth principles, and the state consolidated plan and any local housing plans.

**25.6(2)** The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. ~~Documentation of the availability of certified lead professionals and contractors trained or certified in safe work practices may also be required.~~ IDEED reserves the right to deny funding to an applicant that has failed to comply with federal and state requirements in the administration of a previous project funded by IDEED. Documentation of the ability of the applicant to provide technical services and of the availability of certified lead professionals and contractors either trained in safe work practices or certified as abatement contractors may also be required as applicable to the housing fund activity.

**25.6(3)** The application shall provide evidence of the need for the proposed activity, the potential impact of the proposed activity, consistency with sustainability and smart growth principles, and the feasibility of the proposed activity.

**25.6(4) to 25.6(6)** No change.

**25.6(7)** An application for a project located in a locally designated participating jurisdiction (PJ) must show evidence of a financial commitment from the local PJ at least equal to 25 percent of the total IDEED HOME funds requested. Sources of a local PJ funds financial commitment could include one or more of the following: HOME, CDBG, TIF, tax abatement, or general funds.

**25.6(8)** ~~An application for a home ownership activity must indicate that recipients will require the beneficiaries of their home ownership assistance to use a principal mortgage loan product offered by one of the following: Iowa Finance Authority, USDA Rural Development, Federal Home Loan Bank, HUD (including FHA and VA), Fannie Mae, Habitat for Humanity, or Freddie Mac. One of these entities will be the principal, and only, mortgage lender in terms of repayable loans in all individual home ownership assistance projects. Any of the named mortgage lending entity's principal mortgage loan products may be used, provided they meet the following minimum requirements: loan terms will minimally include a 90 percent loan to value ratio and will be no less than a 15 year, fully amortized, fixed rate mortgage.~~

An application for a home ownership assistance activity must indicate that recipients will require the beneficiaries of their home ownership assistance activity to use a principal mortgage loan product that meets the following criteria:

a. With the exception of Habitat for Humanity principal mortgage loan products, the principal mortgage loan must be the only repayable loan in all individual home ownership assistance projects.

b. The housing fund assistance may be recorded in junior position to the principal mortgage loan, but must be recorded in senior position to any and all other funding in all home ownership assistance projects. Recipients of housing fund home ownership assistance activities must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other forms of assistance, such as home equity loans.

c. Any mortgage lending entity's principal mortgage loan products may be used provided they meet all of the following minimum requirements:

(1) Loan interest rates may be no higher than two percentage points above the federal prime interest rate at the time of loan closing;

(2) Loan terms will include an 80 percent or higher loan-to-value ratio;

(3) No less than a 15-year, fully amortized, fixed-rate mortgage may be used; and

(4) No adjustable rate mortgages or balloon payment types of mortgages will be allowed.

d. Recipients are encouraged but not required to have the beneficiaries of their home ownership assistance activity utilize a principal mortgage loan product offered by one of the following: Iowa Finance Authority; USDA-Rural Development; Federal Home Loan Bank; HUD (including FHA and VA); Habitat for Humanity; Fannie Mae; or Freddie Mac.

**25.6(9)** An application for a home ownership assistance activity must stipulate that home ownership assistance is for first-time homebuyers only, and that the assisted unit will remain as the assisted homebuyer's principal residence throughout the required period of affordability.

ITEM 6. Amend rule 261—25.7(15) as follows:

**261—25.7(15) Application review criteria.** IDED shall evaluate applications and make funding decisions based on general activity criteria, need, impact, sustainability and smart growth principles, feasibility, and activity administration based upon the specific type of activity undertaken. The activity criteria shall be a part of the application. A workshop will be held at least 60 days prior to the application deadline to provide information, materials, and technical assistance to potential applicants.

**25.7(1)** As applicable, the review criteria for home ownership assistance applications shall include the following:

*a. General criteria.*

1. Activity objectives.

2. Total number of units.

3. Activities and cost estimates.

4. If new construction, availability of necessary infrastructure and utilities.

5. Form(s) of assistance.

6. Type(s) of assistance (e.g., mortgage buy-down, development subsidy, down payment, closing costs, rehabilitation, and combinations thereof).

7. Median purchase price for single-family housing in the community.

8. Initial purchase price or after rehabilitation value per assisted unit limitation.

9. Mortgage lender participation documentation and the current underwriting standards.

10. Methodology to determine maximum amount of conventional financing affordable to buyer.

11. Selection criteria for participants and their access to the proposed activity.

12. Methodology to ensure that the property will be the buyer's principal residence throughout the period of affordability.

13. Assurance of compliance with HUD lead-safe housing regulations as applicable.

14. Compliance with the most current version of Iowa's Minimum Housing Rehabilitation Standards (November 1999) and, as applicable, local standards, codes, and ordinances, or the state building code, as each may be applicable.

15. Activity time line.

*b. and c. No change.*

**25.7(2)** As applicable, the review criteria for owner-occupied housing rehabilitation applications shall include the following:

*a. General criteria.*

1. Activity objectives.

2. Area of benefit and reason for selection.

3. Condition of infrastructure in the activity area served.

4. Form of assistance to homeowners.

5. Selection criteria for participants.

6. Method to determine that the property is the homeowner's principal residence.

7. Compliance with the most current version of Iowa's Minimum Housing Rehabilitation Standards (November 1999).

8. Assurance of compliance with HUD lead-safe housing regulations, as applicable.

9. Plans for properties infeasible to rehabilitate.

10. Activity time line.

*b. No change.*

*c. Administrative criteria.*

1. Plan for activity administration.

2. Previous activity management experience.

3. Budget for general administration.

4. List of prior CDBG or HOME funding.

5. If application is for a continuation of a prior activity, list of performance targets completed.

**25.7(3)** As applicable, the review criteria for rental housing assistance applications shall include the following:

*a. General criteria.*

1. Activity objectives.

2. Total number of units and number of assisted units.

3. Activities and cost estimates.

4. Eligibility criteria for renters of assisted units (income, age, disability, other).

5. Rationale for activity location.

6. Availability and condition of infrastructure; availability of utilities.

7. Zoning compliance.

8. Environmental issues.

9. Potential tenant displacement including estimated Uniform Relocation Act (URA) costs.

10. Accessibility.

11. Assurance of compliance with HUD lead-safe housing regulations, as applicable.

12. Activity time line.

*b. Need, impact and feasibility criteria.*

1. Evidence of need for the activity.

2. Percentage of need to be met through this activity.

3. Number and percentage of low- and moderate-income persons in the community.

4. Number of renters and owners.

~~4.~~ 5. Housing costs, housing supply, condition of available housing, rental vacancy rate in the community.

~~5.~~ 6. If new construction, documentation of need for new construction.

~~6.~~ 7. Other recent or current housing improvement activities in the activity area served or community served.

- ~~7.~~ 8. Ongoing comprehensive community development efforts in the activity area served or community served.
  - ~~8.~~ 9. New businesses or industries in the past five years in the community.
  - ~~9.~~ 10. Local involvement and financial support.
  - ~~10.~~ 11. Opposition to the activity and plans to alleviate concerns.
  - ~~11.~~ 12. Financial contribution to the activity from other sources (including all underwriting criteria).
  - ~~12.~~ 13. Reason for “gap” in activity financing; justification for housing fund request amount.
    - c. *Administrative criteria.*
      - 1. Plan for activity administration and property management.
      - 2. Previous administrative experience.
      - 3. Plan to ensure long-term affordability.
      - 4. Plan for annual certification of tenant eligibility and compliance with ~~Section 8 Housing Quality Standards~~ the applicable property standards and any ongoing maintenance to ensure long-term lead-safe housing.
      - 5. Previous CDBG- or HOME-funded housing activities and current status.
      - 6. Applicant’s other rental housing activities and addresses.
- 25.7(4) and 25.7(5) No change.**

ITEM 7. Amend rule 261—25.8(15) as follows:

**261—25.8(15) Allocation of funds.**

**25.8(1) and 25.8(2) No change.**

**25.8(3)** ~~Up to a maximum of 60 percent of the state’s annual HOME allocation may be reserved for rental housing activities jointly funded with HOME and low income housing tax credits. IDED reserves the right to reserve a portion of the state’s annual HOME allocation for rental housing activities jointly funded with HOME and low-income housing tax credits.~~

**25.8(4) and 25.8(5) No change.**

**25.8(6)** Awards shall be limited to no more than \$500,000 for all single-family activities assisting homeowners or homebuyers. Awards shall be limited to no more than ~~\$800,000~~ \$900,000 for all multifamily rental activities.

**25.8(7) Single-family per unit subsidies.** ~~The maximum per unit housing fund subsidy for all single-family activities is \$24,999. Additional funds in excess of the \$24,999 per unit limitation may be used to pay technical services costs, lead hazard reduction costs, lead hazard reduction carrying costs, and temporary relocation costs as necessary or applicable.~~

a. The maximum per unit subsidy for all single-family activities involving rehabilitation is \$37,500. The \$37,500 per unit limit includes all applicable costs including, but not limited to, the hard costs of rehabilitation or the acquisition subsidy or both; home ownership assistance activities; technical services costs, including lead hazard reduction or abatement carrying costs; lead hazard reduction or abatement costs; and temporary relocation. All applicable technical services costs, including any lead hazard reduction or abatement carrying costs, are limited to \$3,750 per unit.

b. Single-family activities providing acquisition assistance for newly constructed housing (mortgage buy-down, downpayment or closing costs assistance or both, or combinations thereof) is limited to \$35,000 per unit, inclusive of all costs, including technical services costs.

c. Single-family activities providing development subsidies for newly constructed housing is limited to \$20,000 per unit. Development subsidies may be provided in addition to acquisition assistance activities.

**25.8(8) Multifamily per unit subsidies.** ~~The maximum per unit housing fund subsidy for all multifamily activities is \$50,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units. The \$50,000 per unit multifamily limit includes all applicable costs including, but not limited to: hard costs of construction or rehabilitation; architectural or technical services costs; lead hazard reduction, lead hazard reduction or abatement costs; and temporary relocation. The maximum per unit housing fund subsidy for all multifamily activities is \$60,000 per unit~~

including both newly constructed units and the rehabilitation of existing multifamily units, including conversion activities. The \$60,000 per unit multifamily limit includes all applicable costs including, but not limited to, hard costs of construction or rehabilitation; architectural design or technical services costs; lead hazard reduction or abatement costs; lead hazard reduction or abatement carrying costs; and temporary relocation.

**25.8(9)** Recipients shall ~~justify~~ identify general administrative costs in the housing fund application. IDED reserves the right to negotiate the amount of funds provided for general administration ~~and technical services~~, but in no case shall the amount for general administration exceed 10 percent of a total housing fund award. Only local government and nonprofit recipients are eligible for general administrative funds.

**25.8(10)** and **25.8(11)** No change.

ITEM 8. Amend rule 261—25.9(15) as follows:

**261—25.9(15) Administration of awards.** Applications selected to receive housing fund awards shall be notified by letter from the IDED director.

**25.9(1)** A preaudit survey ~~will~~ may be required for all for-profit and nonprofit direct recipients for grants that exceed \$150,000.

**25.9(2)** to **25.9(4)** No change.

**25.9(5)** Record keeping and retention. ~~The recipient shall retain all financial records, supporting documents and all other records pertinent to the housing fund activity for five years after contract expiration.~~

a. CDBG-funded projects. For CDBG-funded projects, the recipient shall retain all financial records, supporting documents and all other records pertinent to the funded activity for five years after the state of Iowa has closed out the corresponding program year with HUD.

b. HOME-funded projects. For HOME-funded projects, 24 CFR 92.508 provides the record retention requirements. All records pertaining to each fiscal year of HOME funds must be retained for the most recent five-year period, except as provided in the following:

(1) For rental housing projects, records may be retained for five years after the project completion date, except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates;

(2) For home ownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates;

(3) For tenant-based rental assistance projects, records must be retained for five years after the period of rental assistance terminates;

(4) Written agreements must be retained for five years after the agreement terminates;

(5) For records covering displacements and acquisitions, see 24 CFR 92.508;

(6) For records relating to litigation, see 24 CFR 92.508.

c. Representatives of IDED, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a housing fund award.

**25.9(6)** to **25.9(11)** No change.